

# **Exhibit 3**

# SUSMAN GODFREY L.L.P.



## Arun Subramanian Partner

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### Overview

New York Partner Arun Subramanian has successfully represented both plaintiffs and defendants in a wide variety of high-stakes commercial cases. As one of the youngest partners at the firm, and one of the youngest partners elected to the Firm's Executive Committee (2015-2017), Arun has amassed the litigation successes of an attorney with twice his experience.

Called an "[agile thinker](#)" with ability to able to "master complex problems and distill them to their essence in writing and presentation to the court" by Assured Guaranty General Counsel and Managing Director, Ed Newman, Arun has been actively involved in a variety of significant matters for Susman Godfrey. No matter what the arena—patent, trade secrets, antitrust, False Claims Act breach of contract, or fraud — **Arun has a proven track record of success.** This includes:

- Ongoing success in the widely covered, high stakes antitrust matter, *In re: Libor-based Financial Instruments Antitrust Litigation*, where Susman Godfrey lawyers, as co-lead counsel to the OTC plaintiffs, have secured over [half a billion dollars in settlements](#) and recently [won class certification](#)\* for the plaintiffs they represent on their antitrust claims. (\**subscription required*)
- Securing a complete jury victory in Tyler, Texas, on behalf of client Globus Medical in a patent infringement case brought by Flexuspine, Inc., a local Tyler company. Arun served as co-lead counsel. Read more [here](#).
- A landmark False Claims Act lawsuit against the Swiss drug manufacturer Novartis Pharmaceuticals Corporation which settled for over \$450 million – the highest award ever given in a whistleblower suit of this nature. Learn more [here](#).
- The firm's second victory before the Financial Industry Regulatory Authority (FINRA) on behalf of brokers seeking to avoid clawback claims on bonuses. Read more about that case [here](#).
- A trailblazing victory for Assured Guaranty against Flagstar Bank in one of the first trials concerning repurchases of faulty RMBS. Susman Godfrey secured a [judgment for Assured Guaranty of over \\$100 million](#).
- Successfully representing client Personalized Media Communications ("PMC") as lead counsel in appeals, arbitration proceedings, and in trial court. Arun's team has secured PMC tens of millions of dollars in settlements, and a judgment in PMC's favor on the scope of the company's major licenses. Click [here](#) for an example.
- A major class action win against New York City's largest hop-on, hop-off sightseeing bus operator, resulting in a [\\$19 million settlement for Arun's clients](#).
- Arguing successful appeals in several major cases including:
  - [BASCOS v. AT&T Corp.](#), one of the first cases to uphold a patent challenged under the Supreme Court's *Alice* decision,
  - *PMC v. Scientific Atlanta*, where the Federal Circuit upheld the dismissal of a licensee's breach of contract action against client PMC, and

- [\*Harris v. Fischer\*](#), where Arun was appointed as *pro bono* counsel for the plaintiff by the United States Court of Appeals for the Second Circuit. The Court reversed the District Court's dismissal of prisoner's Section 1983 case relating to a strip search of a female prisoner by male guards.

Outside of the courtroom, Arun contributes to the legal community by taking on pro bono cases and serving on the Board of Directors for the *Columbia Law Review*.

## Education

- Case Western Reserve University, *summa cum laude* (B.A., Computer Science & English, 2001)
- Columbia Law School (J.D. 2004)

## Judicial Clerkship

- Law Clerk to the Honorable Ruth Bader Ginsburg, Supreme Court of the United States, 2006-2007
- Law Clerk to the Honorable Gerard E. Lynch, United States District Court for the Southern District of New York, 2005-2006
- Law Clerk to the Honorable Dennis Jacobs, United States Court of Appeals for the Second Circuit, 2004-2005

## Notable Representations

### COMPETITION

- In a November 2015 False Claims lawsuit against Swiss drug manufacturer Novartis Pharmaceuticals Corporation, Arun was a significant part of the legal team representing David M. Kester, a whistleblower who claimed that Novartis defrauded the Medicare and Medicaid programs by illegally paying kickbacks to pharmacies so that they would recommend to doctors and patients six of Novartis' specialty medications. The matter, [\*Kester et al. v. Novartis Pharmaceuticals Corp\*](#), settled in November 2015 for \$450 million.

### REGULATORY AND BANKING

- In August 2017, Arun was a crucial part of a team that inked a [\\$130 million settlement with Citigroup](#), which not only delivers compensation to the plaintiffs but provides for substantial cooperation from Citibank in the litigation in the ongoing *In re: Libor-based Financial Instruments Antitrust Litigation*. An earlier [settlement with Barclays for \\$120 million](#) and the bank's agreement to cooperate in the ongoing litigation received preliminary approval by the court in mid-2017. The largest and most recent settlement is [a \\$240 million deal with Deutsche Bank in early 2018](#). The plaintiffs also recently secured an additional settlement with HSBC. The OTC plaintiffs, who recently achieved class certification on the class's antitrust claims, still have outstanding claims against other banks on the LIBOR panel, including JPMorgan, Bank of America, and UBS AG.
- In February 2015, Arun was an essential part of the Susman Godfrey team who prevailed on behalf of clients Ileana Platt and Rafael Urquidi against claims by Barclays Capital that it was entitled to recover \$4 million in bonuses paid to the two former brokers in its Miami office. Hundreds of note collection cases are litigated every year that result in banks being awarded a full recovery, but for the second time in three years, [Susman Godfrey successfully defeated the claims before the FINRA panel](#).
- In February 2013, Arun was co-lead attorney in the matter [Assured Guaranty Municipal Corp v Flagstar](#)

Bank, FSB when it was ruled that Flagstar Bank had to pay Susman Godfrey client, bond insurer Assured Guaranty Ltd., approximately \$90 million plus contractual interest and attorneys' fees and costs in a case involving breach of contract by the originator and sponsor of residential mortgage-backed securities. This ruling was a significant milestone in forcing the banks to honor the contractual commitments they made and had long sought to avoid after the financial crisis.

## INTELLECTUAL PROPERTY

- In August 2016, Arun served as co-lead counsel to client Globus Medical in spinal insert patent infringement litigation brought by Flexuspine, Inc., a local Tyler company. A jury in the U.S. District Court for the Eastern District of Texas issued a defense verdict entirely in Globus Medical's favor. Arun went on to co-write an article for *The Corporate Counselor* (an ALM Publication) about their experience trying this case out of their home state and give useful tips about winning 'on the road.' Click [here](#) to read that article, page 9,
- In June 2016, Arun served as lead counsel to client Bascom Global when the Federal Circuit revived a patent infringement lawsuit brought by Susman Godfrey against AT&T. The ruling overturned a lower court's decision that the Bascom patent was ineligible when viewed under the test established by the U.S. Supreme Court's Alice decision. This is one of the first cases to uphold a software patent under Alice after a string of losses doled out to plaintiffs by the appellate court.
- In 2015 Arun was part of the team that won over \$60 million in settlements for IP-portfolio holding company Personalized Media Communications ("PMC") in a patent infringement case filed against Motorola, Inc., EchoStar Corp., and DISH Network Corp. Arun defeated numerous motions filed by the defendants and third-party intervenors, including defendants' petition filed with the U.S. Court of Appeals for the Federal Circuit to transfer the case from Marshall, Texas to Delaware.

## BREACH OF CONTRACT

- Achieved a total victory for client Wade Emory Johnson in a "David v. Goliath" breach of contract arbitration against Transparent Value, LLC, a subsidiary of global bank Guggenheim Partners. The AAA arbitration panel, after a four-day hearing, awarded Arun's client damages and securities worth millions of dollars (net of attorneys' fees and expenses). The award was subsequently confirmed in full by the New York State Supreme Court.
- Successfully represented GenOn Energy, Inc. in a multi-million dollar breach of contract action against NRG Retail, LLC filed in New York Supreme Court. The case was settled on confidential terms shortly after Arun filed a pre-discovery motion for summary judgment against NRG.

## CLASS ACTIONS

- In May 2014, Arun was an integral part of the Susman Godfrey team who represented plaintiffs in an antitrust suit against Coach USA and City Sights, competitors in New York City that formed a joint venture accounting for 99 percent of New York City's hop-on, hop-off sightseeing bus tours in re: NYC Bus Tour Antitrust Litigation. Once Susman Godfrey was appointed as lead counsel in the consumer actions (following a Department of Justice claim), a \$19 million settlement was quickly reached in May 2014. Given the increasing barriers to consumer class actions, this represented a significant victory for Susman Godfrey.
- Represented the plaintiffs in *Clark v. AdvanceMe, Inc.*, a class action brought in Los Angeles federal court challenging financial arrangements with retail merchants under California's laws against usury. After the

plaintiffs prevailed in a choice-of-law fight where AdvanceMe attempted to enforce a New York choice-of-law provision in its contracts, on briefs authored primarily by Arun, the case was settled for approximately \$23.4 million in cash and other economic consideration.

## PRO BONO

- In March 2016, Arun was appointed by the Second Circuit to represent Audra Lynn Harris on her appeal to that jurisdiction that her Fourth and Eighth Amendment rights were violated during a body cavity search while she was incarcerated. Arun successfully argued on behalf of Harris which led to the Second Circuit vacating the district court's decision dismissing the case and remanded for further consideration. Click [here](#) for more.

## Honors and Distinctions

- Named a "[Rising Star](#)" by the *New York Law Journal* (2018, ALM)
- Recognized as a "Leading Patent Practitioner" in the U.S. by IAM 1000 – The World's Leading Patent Professionals 2018 (Globe Business Media Group)
- Named to *Benchmark Litigation's* 2018 "[40 and Under Hot List](#)" (Legal Media Group; Euromoney Institutional Investor, 2017)
- Named to *Benchmark Litigation's* 2017 Under 40 Hot List (Legal Media Group; Euromoney Institutional Investor, 2017)
- Recognized as an "Up & Coming" Attorney in General Commercial Litigation by Chambers U.S. (2016 – 2018)
- Executive Articles Editor, *Columbia Law Review*, Vol. 103
- James Kent Scholar (2002-04)
- Harlan Fiske Stone Scholar (2001)

## Articles

- "[Winning on the Road](#)" *The Corporate Counselor*(an ALM Publication); December 2016
- "[Will the Supreme Court Weigh in on Claim Construction Appeals?](#)" IPWatchdog (March 2014).
- Note, Assessing the Rights of IRU Holders in Uncertain Times, 103 Colum. L. Rev. 2094 (2003)

## Professional Associations and Memberships

### Bar Memberships

- United States District Court, Eastern and Southern Districts of New York, United States Court of Appeals for the Second Circuit, United States Court of Appeals for the Federal Circuit, State of New York, Eastern District of Texas, Eastern District of Michigan, Supreme Court of the United States

### Professional Associations

- Board of Directors, The Columbia Law Review Association, Inc.
- Pro Bono Panel, United States Court of Appeals for the Second Circuit